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| 10/027,458 | 12/21/2001 | Eldridge R. Byron | SPE-33 | 1519 |

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EXAMINER

EDELL, JOSEPH F

| ART UNIT | PAPER NUMBER |
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3636

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,458

Applicant(s)

BYRON ET AL.

Examiner

Joseph F Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8-17,20 and 28-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8-17,20,28-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8-12, 15-17, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,574,624 to Rennie et al. in view of U.S. Patent No. 2,064,439 to McWhirter.

Rennie et al. disclose a cabinet that is basically the same as that recited in claims 1, 8-12, 15-17, 30, and 31 above except that the cabinet lacks a door, first and second members, a hinge, a channel, a seal, a panel, and a seal, as recited in the claims. See Figures 1-10 of Rennie et al. for the teaching that a cabinet has a plurality of walls (Fig. 1), a baffle 42 (Fig. 2), an exhaust vent (Fig. 1), a flap covering the exhaust vent (Fig. 1), and a hinge connecting the flap to the cabinet (Fig. 1). McWhirter shows a cabinet similar to that of Rennie et al. wherein the cabinet has a plurality of walls (Fig. 1), a door 6 (Fig. 1), a first member (Fig. 15) disposed parallel to one of the walls, a second member (Fig. 15) connecting the first member to one of the walls, a hinge (Fig. 15) connecting the door to one of the first member, the second member, and one of the walls, a channel 22 (Fig. 15) attached to the door and extending over the hinge wherein the channel receives an edge of the first member, a resilient seal 15 (Fig.

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15) disposed between the edge and the channel, a latch mechanism 47 (Fig. 1) including a plurality of hooks (Fig. 3) and a strike assembly (Fig. 3) receiving the plurality of latch hooks, an opening (Fig. 4) bounded by first and second edges 52,53 (Fig. 12), an access panel 7 (Fig. 1) having a first surface (Fig. 4) and first and second panel edges 62,63 (Fig. 12) with first and second protruding members, and first and second resilient seals 15 (Fig. 12) disposed between the first surface and the first and second edges. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cabinet of Rennie et al. such that the cabinet has a door, a first member disposed parallel to one of the walls, a second member connecting the first member to one of the walls, a hinge connecting the door to one of the first member, the second member, and one of the walls, a channel attached to the door and extending over the hinge wherein the channel receives an edge of the first member, a resilient seal disposed between the edge and the channel, a latch mechanism including a plurality of hooks and a strike assembly receiving the plurality of latch hooks, an opening bounded by first and second inwardly facing edges, an access panel having a first surface and first and second outwardly facing panel edges with first and second protruding members, and first and second resilient seals disposed between the first surface and the first and second edges, such as the cabinet disclosed in McWhirter. One would have been motivated to make such a modification in view of the suggestion in McWhirter that the door with the resilient seal and the access panel with the resilient seal allows for accessibility to electrical components within cabinet while insuring that the door and access panel are waterproof. Moreover, it would have been

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obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the cabinet such that the edges facing in the corresponding direction because the reversal of directions and/or parts is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the cabinet of Rennie et al. in view of McWhirter by having the edges of the opening face inwardly and the edges of the access panel face outwardly since the Applicant has not disclosed that having the specific configuration solves any stated problems or is for any particular purpose and it appears that the cabinet would perform equally well with any suitable edge orientation.

3. Claims 13, 14, 20, 28, 29, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rennie et al. in view of McWhirter as applied to claims 1, 8-12, 15-17, 30, and 31 above, and further in view of U.S. Patent No. 5,137,340 to Cugley et al.

Rennie et al., as modified, disclose a cabinet that is basically the same as that recited in claims 13, 14, 20, 28, 29, and 32 above except that the cabinet lacks a first and second dimples, first and second openings, and a fastener, as recited in the claims. Cugley et al. show a cabinet similar to that of Rennie et al. wherein the cabinet has a plurality of walls (Fig. 2), a first dimple 33 (Fig. 2) in a first surface of the wall, a second dimple (Fig. 1) in a second surface of the wall, a centered first opening (Fig. 2) in the first surface, a centered second opening (Fig. 1) in the second surface and in register with the first opening when the first dimple is mated with the second dimple, and a fastener disposed in the first and second openings mating the first and second dimples. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the cabinet of Rennie et al. such that the

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cabinet has a first dimple in a first surface of the roof panel, the floor panel, one of the walls, or a structural member, a second dimple in a second surface of the roof panel, the floor panel, one of the walls, or a structural member, a centered first opening in the first surface, a centered second opening in the second surface and in register with the first opening when the first dimple is mated with the second dimple, and a fastener disposed in the first and second openings mating the first and second dimples, such as the cabinet disclosed in Cugley et al. One would have been motivated to make such a modification in view of the suggestion in Cugley et al. that cabinets with first and second dimples all neighboring cabinets to be releasably locked with one another.

Response to Arguments

4. Applicant's arguments filed 14 June 2004 have been fully considered but they are not persuasive. Applicant argues that the modification of Rennie et al. in view of McWhirter would not produce the cabinet defined in amended claim 1 because McWhirter fails to teach a second member connecting the first member to a wall as well as a channel attached to the door and extending over the hinge. However, Figure 15 of McWhirter clearly shows a first member that is parallel to the cabinet wall (note A below) as well as a second member connecting the first member to the wall (note B below). With respect to the channel of McWhirter, the channel 22 (Fig. 15) is attached to the door via the hinge and extends over the hinge. Therefore, the teachings of Rennie et al. in view of McWhirter teach all the limitations recited in amended claim 1.

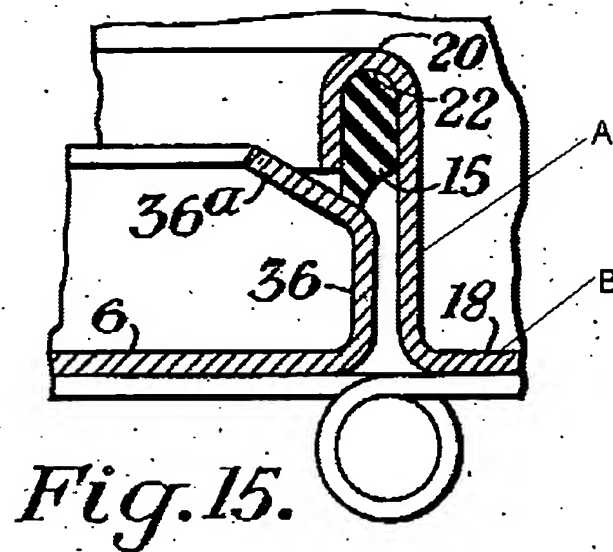


Fig. 15.

Next, Applicant argues that McWhirter fails to teach a latching mechanism having a plurality of latch hooks and a strike assembly receiving the plurality of hooks.

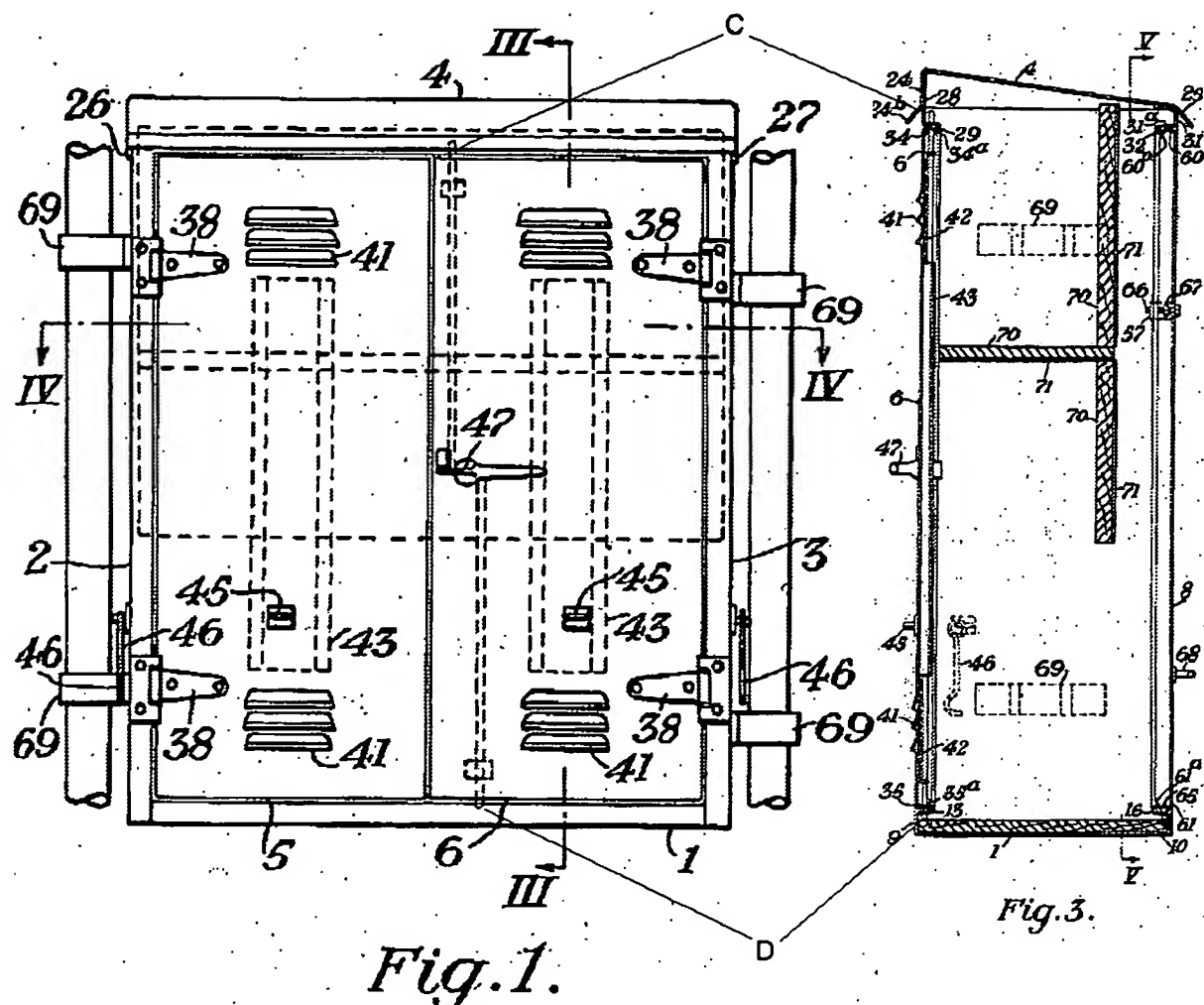
Applicant mistakenly interprets hook 46 of McWhirter as the plurality of latching hooks.

Figures 1 and 3 of McWhirter clearly show a latching mechanism having a plurality of

latch hooks (note C and D below) received by a strike assembly. Therefore, the

teachings of Rennie et al. in view of McWhirter teach all the limitations recited in claims

8 and 11.



Also, Applicant argues that McWhirter does not teach an access panel of claims 9 and 10. However, Figure 12 of McWhirter clearly shows an enlarged detailed view of the access panel and opening of Figure 4. With respect to amended claim 12 requiring the inwardly and outwardly turned edges of the corresponding opening and access panel, Examiner contends that the directional limitations are merely design choice and obvious to one skilled in the art. Lastly, Applicant argues that the cabinet of Rennie et al., as modified, in view of Cugley et al. fails to teach the dimples of claims 13, 14, 20, 28, 29, and 32 because the dimples taught in Cugley et al. are for a different purpose as

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the dimples recited in the claims. However, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). The dimples taught of Cugley et al. are capable of providing increased shear strength to fasteners thus meeting the limitations required by amended claims 14 and 20 as well as new claim 28, 29, and 32.

Upon consideration of the Applicant's arguments, Examiner maintains the rejections of claims 1, 8-17, and 20 and rejects new claims 28-32.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE
September 7, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600